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Apr. 10

CONCORD, N.H.

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex

Dear Sir:

Under date of March 22, 1951, you have referred the question of the settlement of Frederick C. Hayford.

You point out that, according to affidavits of various persons, Hayford moved from Sandown to Chester in November 1944. Under the provisions of R. L. c. 123, s. 1, IV, five years domicile confers a settlement; unless something else appears, his settlement in Chester should have been perfected November 1949. It appears, however, that the selectmen of Chester refuse to admit that a settlement accrued in 1949; they state, you advise, that the commencement of five years of domicile required by the statute cited above did not commence to run until March 10, 1947 when Hayford caused his name to be entered on the Chester Check-List.

I cannot agree with the position last stated. If, as appears from the affidavits mentioned, Hayford moved to Chester in November 1944, and had at that time the intent to call that town his home for an indefinite time and with no fixed intention of returning to Sandown, he acquired, then, in 1944, a domicile in Chester. The fact that he did not register to vote in Chester until 1947 is entirely irrelevant; one can acquire a domicile which will ripen into settlement without ever voting.

It is my opinion, therefore, that Hayford acquired a settlement in Chester in November of 1944.

Very truly yours,

Warren E. Waters
Assistant Attorney General

WAW:rm